

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

§

CRIMINAL NO. 4:00CR96

v.

§

§

TRACY LEDBETTER

§

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 6, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Heather Rattan.

On March 30, 2001, the Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to 75 months imprisonment followed by a 5-year term of supervised release for the offense of conspiracy to manufacture, distribute or dispense, or possess with the intent to manufacture, distribute or dispense methamphetamine. Defendant began his term of supervision on March 17, 2006. This case was re-assigned to the Honorable Richard A. Schell on June 25, 2008.

On July 11, 2008, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 118). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance, Defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation

officer; (2) Defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; and (3) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as Defendant is released from the program by the probation officer.

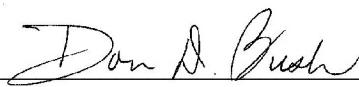
The petition alleges that Defendant committed the following violations: (1) Defendant submitted urine specimens on February 1, 2008, February 28, 2008, and April 4, 2008, which tested positive for amphetamine/methamphetamine, and the specimen from April 4, 2008 also tested positive for marijuana; (2) Defendant failed to submit a truthful and complete written report within the first five days of May and June 2008; and (3) Defendant failed to attend substance abuse counseling on March 4, 2008 and April 9, 2008, and failed to submit urine specimens on March 20, 2008, April 1, 2008, April 7, 2008, and April 15, 2008.

At the hearing, Defendant entered a plea of true to the alleged violations. The Court finds Defendant violated the terms of his supervised release. The Court further finds that Defendant's supervised release should be revoked. Defendant has waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. While Defendant's counsel represented that the parties had reached an agreement as to the term of imprisonment, Defendant requested that his term of imprisonment be concurrent with a state court sentence. The Government opposed this request.

RECOMMENDATION

Having heard the arguments of counsel, the Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months, with no supervised release to follow. The Court further recommends that six months of the 12-month term of imprisonment shall be served consecutively to his state court sentence, and six months of the 12-month term of imprisonment shall be served concurrently with his state court sentence.

SIGNED this 7th day of October, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE